

## **REMARKS**

### **I. INTRODUCTION**

The Specification has been amended. No new matter has been added. Thus, claims 1-20 are pending in the present application. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

### **II. THE OBJECTIONS TO THE DISCLOSURE SHOULD BE WITHDRAWN**

The Disclosure is objected to for including an embedded hyperlink and for not including a correct serial number on page 3, lines 26. (See 08/19/08 Office Action, p. 2).

The Disclosure has been amended to correct the above deficiencies. As such, Applicants that the Disclosure is now in condition for allowance and the objection to the Disclosure should be withdrawn.

### **III. THE 35 U.S.C. § 102(b) REJECTIONS SHOULD BE WITHDRAWN**

Claims 1, 2, 4, 5, 7, 9-11 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,230,047 to McHugh (hereinafter "McHugh"). (See 08/19/08 Office Action, p. 2).

Claims 1 recites, "a processing unit to (1) *determine whether intensity of the parameter of the user should be increased, decreased or maintained by using the parameter of the user from the sensing unit and a predetermined reference value.*" The Examiner asserts that the above recitation of claim 1 is taught by McHugh in column 5 line 56 through column 6 line 6. (See 08/19/08 Office Action, p. 3). Applicants respectfully disagree.

McHugh states that,

Another aspect of the present invention may also be utilized to slow the user's heartbeat. A programmed rhythm is played at a desired, e.g., normal, heartbeat. The programmed rhythm is played at least as long as the user's heartbeat is above the desired heartbeat. At the point the heartbeat signal 22 indicates the desired heartbeat is reached, the programmed rhythm may continue or may halt.

(See McHugh col. 5, ll. 61-67). McHugh, however, is completely silent as to when the above function is activated. McHugh makes no mention that there is a determination that the user's heartbeat needs to be slowed. All prior functions of McHugh are performed at the request of the user. "The means 34 for selecting allows the user to select from the preprogrammed rhythm pattern data." (See McHugh col. 5, ll. 8-10). "User programmable means for generating a pulse alarm signal corresponding to a user defined pulse rate and means for outputting the alarm signal to the user." (See McHugh col. 3, ll. 40-42). McHugh makes no mention of a processor, or any other part of the system of McHugh, automatically providing any of the above functions, including slowing the user's heartbeat. To read that the slowing of the user's heartbeat is done automatically by McHugh in response to an automatic input into the system, as done by the Examiner, is to incorrectly infer something into McHugh that is clearly not present. In contrast, claim 1 specifically recites, "**a processing unit to (1) determine whether intensity of the parameter of the user should be increased, decreased or maintained by using the parameter of the user from the sensing unit and a predetermined reference value.**" (emphasis added). Therefore, Applicants submit that McHugh does not teach or suggest the above-recitation of claim 1. Thus, Applicants submit that claim 1 is patentable over McHugh. Because claims 2, 4, 5, 7 and 9-11 depend from, and therefore include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 1.

Independent claim 14 recites, "determining whether intensity of the parameter of the user should be increased, decreased or maintained by using the parameter of the user from the sensing unit and a predetermined reference value." Applicants submit that this claim is also allowable for at least the same reasons stated above with respect to claim 1.

**IV. THE 35 U.S.C. § 102(c) and 103(a) REJECTIONS SHOULD BE WITHDRAWN**

Claims 1, 3, 6, 8 and 20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,837,827 to Lee et al. (hereinafter “Lee”) or in the alternative under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 5,986,200 to Curtin (hereinafter “Curtin”). (See 08/19/08 Office Action, p. 5).

Claims 1 recites, “a sensing unit to obtain a parameter of a user in physical exercise...a processing unit to (1) determine whether intensity of the parameter of the user should be increased, decreased or maintained by using the parameter of the user from the sensing unit and a predetermined reference value.” The Examiner asserts that the above recitation of claim 1 is taught by Lee by GPS component 40 and in column 9 lines 21-26. (See 08/19/08 Office Action, p. 5). Applicants respectfully disagree.

The Examiner equates GPS component 40 to the “parameter of a user in physical exercise,” from claim 1. This, however, is incorrect. As one skilled in the art understands, a GPS component can only determine the location of something. In Lee, this is the location of the user. The location of something cannot increase or decrease in intensity. The location of something has no level of intensity. In contrast, claim 1 specifically recites, “determine whether **intensity of the parameter** of the user should be **increased, decreased or maintained** by using the parameter of the user from the sensing unit and a predetermined reference value.” (emphasis added). Therefore, the GPS component from Lee cannot be the parameter from claim 1. Thus, Applicants submit that claim 1 is patentable over Lee. Applicants further submit that Curtin does not cure the above-described deficiency of Lee with respect to claim 1. Therefore, Applicants submit that claim 1 is patentable over the combination of Lee and Curtin. Because claims 3, 6, and 8 depend from, and therefore include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 1.

Independent claim 20 recites, “a processing unit configured to (1) determine whether the parameter should be increased, decreased or maintained by using the parameter from the sensing unit and a predetermined reference value.” Applicants submit that this claim is also allowable for at least the same reasons stated above with respect to claim 1.

Claims 14–16, 18 and 19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Lee. (See 08/19/08 Office Action, p. 7).

Applicants submit that claim 14 is allowable for at least the same reasons stated above with respect to claim 1. Because claims 15, 16, 18 and 19 depend from, and therefore include all the limitations of claim 14, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 14.

**V. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN**

Claims 12 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McHugh. (See 08/19/08 Office Action, p. 9).

Because claim 12 depends from, and therefore includes all the limitations of claim 1, it is respectfully submitted that this claim is also allowable for at least the same reasons given above with respect to claim 1. Because claim 17 depends from, and therefore includes all the limitations of claim 14, it is respectfully submitted that this claim is also allowable for at least the same reasons given above with respect to claim 14.

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Curtin and McHugh in further view of U.S. Patent No. 6,135,951 to Richardson et al. (hereinafter “Richardson”). (See 08/19/08 Office Action, p. 10).

Applicants submit that Richardson does not cure the above-described deficiencies of Lee, Curtin, and McHugh with respect to claim 1. Because claim 13 depends from, and therefore includes all the limitations of claim 1, it is respectfully submitted that this claim is also allowable for at least the same reasons given above with respect to claim 1.

**CONCLUSION**

In light of the foregoing, Applicants respectfully submit that all of the now pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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